

PHARMACY EXAMINING BOARD  
REGULAR MEETING  
OCTOBER 9-10, 2001

MEMBERS PRESENT: Cynthia Benning, RPH; Michael Bettiga, RPH; John Bohlman, RPH; Georgina Forbes; Dan Luce, RPH; Charlotte Rasmussen; Sue Sutter, RPH

LEGAL COUNSEL: William Black (excused at 3:10 p.m.)

STAFF PRESENT: Patrick D. Braatz, Karen Rude-Evans

GUESTS: Nathan Reabe, UWSOP; Gina Besteman, Women's International Pharmacy; Larry Edwards, DOC; Al Bennin, Walgreens; Nathan Kanous, UWSOP/PIB; Susan Kleppin and Scott Whitmore, PSW; Jamie Statz Paynter, Dean Pharmacy; Laurie Hager-Dean, GHC

CALL TO ORDER

Chair John Bohlman called the meeting to order at 11:06 a.m. on October 9, 2001.

APPROVAL OF AGENDA

Amendments: -Review of draft statement from the PIB regarding the PIB  
-Review of draft statement from the PEB regarding the PIB  
-Review of 2001 Bill to require pharmacies to keep patient health care record confidential  
-Review of correspondence from NACDS regarding central fill

MOTION: Michael Bettiga moved, seconded by Sue Sutter, to approve the agenda as amended. Motion carried unanimously.

REVIEW AND APPROVE SCOPE STATEMENT TO CREATE RULES TO IMPLEMENT A  
PHARMACY INTERNSHIP ADMINISTERED BY THE BOARD AND REVIEW AND  
APPROVE PIB/PEB STATEMENT FOR PUBLICATION

The Board and Nathan Kanous reviewed statements from both the Pharmacy Internship Board (PIB) and the Pharmacy Examining Board (PEB) regarding the transition period of the PIB. It was decided to issue a joint statement from both boards rather than separate statements. Sue Sutter and Cynthia Benning will work with Nathan Kanous to draft the joint statement.

MOTION: Sue Sutter moved, seconded by Dan Luce, to approve the scope statement to create rules to implement a pharmacy internship administered by the Pharmacy Examining Board. Motion carried unanimously.

John Bohlman appointed himself, Sue Sutter and Cynthia Benning to a committee to develop rules to administer a pharmacy internship board administered by the Pharmacy Examining

Board. Legal counsel will review the current rules relating to pharmacy internship program and will submit a draft. The committee will work from that draft.

REVIEW OF 2001 BILL RELATING TO REQUIRING PHARMACIES TO KEEP PATIENT  
HEALTH CARE RECORDS CONFIDENTIAL AND PROHIBITING SOCIAL SECURITY  
NUMBERS ON IDENTIFICATION CARDS

This bill expands the definitions of “health care provider,” and “patient health care record,” for the purposes of confidentiality of patient health care records, to include a pharmacy that is licensed by the Pharmacy Examining Board. The bill also establishes civil liability for a person who obtains a patient health care record from a pharmacy or pharmacist under circumstances that constitute a violation of the patient health care confidentiality laws. The Board did not object to this portion of the bill.

The current healthcare system uses the social security number as the identifier for every single patient. If that is changed, every single patient will be inconvenienced and possibly denied access because the system would have to be radically overhauled. The healthcare system is not designed to function solely in Wisconsin, and this portion of the bill would be detrimental to Wisconsin’s patients.

REVIEW AND APPROVE SCOPE STATEMENT TO AMEND PHAR 8.05 TO CONFORM  
TO FEDERAL LAW

MOTION: Michael Bettiga moved, seconded by Dan Luce, to approve the scope statement to amend Phar 8.05 to conform to federal law and to send this to the Clearinghouse. Motion carried unanimously.

REVIEW AND APPROVE SCOPE STATEMENT TO AMEND PHAR 6.08 RELATING TO  
SECURITY REQUIREMENTS FOR INSTITUTIONAL PHARMACIES

MOTION: Michael Bettiga moved, seconded by Georgina Forbes, to approve the scope statement to amend Phar 6.08 relating to security requirements for institutional pharmacies and send this to the Clearinghouse. Motion carried unanimously.

REVIEW OF PROPOSED DEA CENTRAL FILL RULE, COMMENTS FROM NACDS  
REGARDING PROPOSED RULES TO AMEND PHAR 7.12 CENTRAL FILL  
AND REVIEW OF CLEARINGHOUSE COMMENTS REGARDING  
CLEARINGHOUSE RULE 01-091 (CENTRAL FILL)

MOTION: Michael Bettiga moved, seconded by Dan Luce, to eliminate Phar 7.12 (3) (j) from the proposed rule. Cynthia Benning – no. Motion carried.

MOTION: Michael Bettiga moved, seconded by Dan Luce, to move forward with these rules even though the DEA is also working on rules regarding central fill. Motion carried unanimously.

MOTION: Michael Bettiga moved, seconded by Dan Luce, to have legal counsel reply to the Clearinghouse comments as directed. Motion carried unanimously.

#### REVIEW CLEARINGHOUSE COMMENTS REGARDING CLEARINGHOUSE RULE 01-091

The Board reviewed the Clearinghouse comments regarding Clearinghouse Rule 01-091 relating to examinations for original licensure for applicants who are foreign graduates of a school of pharmacy.

MOTION: Sue Sutter moved, seconded by Cynthia Benning, to have legal counsel respond to the Clearinghouse that the foreign pharmacy graduate examination committee does require that the three examinations listed in the analysis be successfully passed for certification. The rule is being changed to reflect that certification is the required element for state licensure. The number and nature of the tests required by the committee is immaterial for state purposes. Motion carried unanimously.

#### DISCUSSION REGARDING PROPOSED RULES FOLLOWING THE PUBLISHING OF SCOPE STATEMENT REGARDING PHYSICAL BARRIERS AND TEMPORARY ABSENCE OF A PHARMACIST

The scope statement regarding physical barriers and temporary absence of a pharmacist has been published. The Board gave direction to legal counsel to begin drafting the proposed rules.

#### REVIEW OF PHAR 7.04(4) REPACKAGING RESTRICTIONS

Scott Whitmore, PSW, spoke to the Board regarding Phar 7.04(4) and the proposed amendment to HFS 83 and how this might affect pharmacy law regarding repackaging. PSW has hired Quarles and Brady to review the proposed amendment and give an opinion to PSW.

#### PRACTICE QUESTIONS

The Board directed legal counsel's responses to the practice questions.

#### DISCUSSION OF JOINT MEETING WITH UW SCHOOL OF PHARMACY/PHARMACY SOCIETY OF WISCONSIN/WISCONSIN PHARMACY EXAMINING BOARD FOR 2002

The Board discussed the possibility of setting up a joint meeting in January or February with the U. W. School of Pharmacy and the PSW to facilitate the exchange of ideas and to discuss the future direction of the profession. John Bohlman suggested holding this meeting in January or February.

#### RECESS

MOTION: Cynthia Benning moved, seconded by Charlotte Rasmussen, to adjourn the meeting.

The meeting adjourned at 3:24 p.m. and will reconvene at 9:00 a.m. tomorrow.

OCTOBER 10, 2001

MEMBERS PRESENT: Cynthia Benning, RPH; Michael Bettiga, RPH; John Bohlman, RPH; Georgina Forbes; Dan Luce, RPH; Charlotte Rasmussen; Sue Sutter, RPH

LEGAL COUNSEL: none

STAFF PRESENT: Patrick D. Braatz, Karen Rude-Evans

GUESTS: Nathan Kanous, PIB; Shelly Roebel and Rich McCormick, Purdue; Elizabeth Nelson, Women's International Pharmacy; Mary Swandby, Chartwell; Marv Moore, student

#### CALL TO ORDER

Chair John Bohlman called the meeting to order at 9:06 a.m. on October 10, 2001.

#### APPROVAL OF AGENDA

Amendments: -Proposed stipulation – Stacey N. Bernard, R.Ph. – Milwaukee – Case advisor, John Bohlman (00 PHM 044)  
-Proposed stipulation – Edward J. Capper, R.Ph. – Whitefish Bay – Case advisor, Michael Bettiga (01 PHM 007)  
-Proposed stipulation – Dan Fitzgerald Pharmacy, Inc. – Milwaukee – Case advisor, Michael Bettiga (01 PHM 007)  
-Proposed stipulation – Charles E. Hall, R.Ph. – Sauk City – Case advisor, Dan Luce (01 PHM 021)  
-Proposed stipulation – William J. Kregel, R.Ph. – Whitefish Bay – Case advisor, Michael Bettiga (01 PHM 007)  
-Proposed stipulation – Luigi N. Miceli, R.Ph. – Pleasant Prairie – Case advisor, Dan Luce (01 PHM 054)  
-Proposed stipulation – Thomas W. Moore, R.Ph. – Frederic – Case advisor, Dan Luce (00 PHM 058)  
-Proposed stipulation – Thomas G. Pire, R.Ph. – Brookfield – Case advisor, Michael Bettiga (01 PHM 024)  
-Proposed stipulation – Jan R. Veenendaal, R.Ph. – Mequon – Case advisor, Michael Bettiga (01 PHM 007)  
-Review of joint statement from the PEB/PIB

MOTION: Cynthia Benning moved, seconded by Charlotte Rasmussen, to approve the agenda as amended. Motion carried unanimously.

## APPROVAL OF MINUTES OF SEPTEMBER 11, 2001

Corrections: -On page 2, under PUBLIC HEARING...CENTRAL FILL SYSTEM, change "WPA" to "PSW".  
-On page 4, in the heading REVIEW...SECURITY REQUIREMENTS FOR INSTITUTIONAL PHARMACIES, delete "INSTITUTIONAL".

MOTION: Cynthia Benning moved, seconded by Georgina Forbes, to approve the Minutes of September 11, 2001, as corrected. Motion carried unanimously.

## PRESENTATION OF PROPOSED STIPULATIONS

JENNY S. KREGEL, RPH

DOE attorney Jim Harris presented a proposed stipulation in the matter concerning Jenny S. Kregel, R.Ph. This matter will be deliberated on in closed session.

LUIGI N MICELI, RPH

DOE attorney Jim Harris presented a proposed stipulation in the matter concerning Luigi N. Miceli, R.Ph. This matter will be deliberated on in closed session.

THOMAS G PIRE, RPH

DOE attorney Arthur Thexton presented a proposed stipulation in the matter concerning Thomas G. Pire, R.Ph. This matter will be deliberated on in closed session.

THOMAS W MOORE, RPH

DOE attorney Arthur Thexton presented a proposed stipulation in the matter concerning Thomas W. Moore, R.Ph. This matter will be deliberated on in closed session.

DAN FITZGERALD PHARMACY, INC

DOE attorney Arthur Thexton presented a proposed stipulation in the matter concerning Dan Fitzgerald Pharmacy. This matter will be deliberated on in closed session.

EDWARD J CAPPER, RPH

DOE attorney Arthur Thexton presented a proposed stipulation in the matter concerning Edward J. Capper, R.Ph. This matter will be deliberated on in closed session.

WILLIAM J KREGEL, RPH

DOE attorney Arthur Thexton presented a proposed stipulation in the matter concerning William J. Kregel, R.Ph. This matter will be deliberated on in closed session.

JAN R VEENENDAAL, RPH

DOE attorney Arthur Thexton presented a proposed stipulation in the matter concerning Jan R. Veenendaal, R.Ph. This matter will be deliberated on in closed session.

CHARLES E HALL, RPH

DOE attorney Arthur Thexton presented a proposed stipulation in the matter concerning Charles E. Hall, R.Ph. This matter will be deliberated on in closed session.

STACEY N BERNARD, RPH

DOE attorney Arthur Thexton presented a proposed stipulation in the matter concerning Stacey N. Bernard, R.Ph. This matter will be deliberated on in closed session.

REVIEW OF JOINT LETTER FROM THE PEB AND THE PIB

MOTION: Sue Sutter moved, seconded by Cynthia Benning, to approve the joint letter from the PEB and the PIB pending approval of the PIB Board of Directors. Motion carried unanimously.

SUMMARY REPORTS ON PENDING COURT CASES, DISCIPLINARY CASES AND ADMINISTRATIVE RULES

These reports were informational.

DISTRIBUTOR/MANUFACTURER'S APPLICATIONS

MOTION: Michael Bettiga moved, seconded by Cynthia Benning, to approve the distributor's applications of **Americal Pharmaceutical Partners, Inc., IL; Aero Compresses Gases, Inc., Milwaukee; Nova Factor, NC; Nycomed Amersham Imaging, NC; Syncor Int. Corp., Appleton; Syncor Int. Corp., Wauwatosa; Syncor Int. Corp., Marshfield and Sea Coast Pharmaceutical, Inc., NE.** Motion carried unanimously.

VARIANCE REQUESTS

WISCONSIN I.V. AFFILIATES, FOX VALLEY

The Board reviewed the variance request from Wisconsin I.V. Affiliates, Fox Valley. If the pharmacy does not sell narcotics or poisons, then they are in compliance.

CHARTWELL MIDWEST WISCONSIN, MIDDLETON

Mary Swandby, R.Ph., pharmacy operations manager at Chartwell Midwest Wisconsin, appeared before the Board to present information on Chartwell's variance request. After discussion with the Board, Ms. Swandby will rewrite her variance request and submit it for the Board's review.

## FRESENIUS MEDICAL CARE NORTH, PLEASANT PRAIRIE, WISCONSIN

Representatives from Fresenius Medical Care North, Pleasant Prairie, appeared before the Board to present information on their variance request.

MOTION: Dan Luce moved, seconded by Michael Bettiga, to approve the pharmacy application of Fresenius Medical Care North

MOTION: Dan Luce moved, seconded by Michael Bettiga, to grant the variance request to Fresenius Medical Care North, Pleasant Prairie, as outlined in their letter of September 29, 2000. Motion carried unanimously

Fresenius Medical Care North, Pleasant Prairie, has been operating without a pharmacy license. This matter will be referred to DOE for screening.

## METZ MEDICAL, INC, KENOSHA

MOTION: Michael Bettiga moved, seconded by Dan Luce, to approve the variance request to Phar 6.06 (1a-I) to Metz Medical, Inc., Kenosha. If the pharmacy is not practicing the other areas of pharmacy mentioned, then a variance is not needed for those requirements. Motion carried unanimously.

## REPORT OF CONTROLLED SUBSTANCES BOARD

The CSB discussed requiring individuals who carry controlled substances for euthanasia in the field to have a safe bolted to the trunk/floor of their vehicle.

## *REGULATORY DIGEST*

The *Regulatory Digest* is at the printer and is already on the DRL website.

## RECESS TO CLOSED SESSION

MOTION: Sue Sutter moved, seconded by Charlotte Rasmussen, to recess to closed session pursuant to Chapter 19.85(1)(a), (b), (f) and (g), Wis. Stats., for the purpose of a personal appearance, deliberation of proposed stipulations, considering requests for stays of suspensions and modifications in board orders, reviewing case status reports, reviewing a request for modification of decision, discussion with new prosecuting attorney, discussion of examination issues and consulting with legal counsel. Roll call vote: Cynthia Benning – yes, Michael Bettiga – yes, John Bohlman – yes, Georgina Forbes – yes, Dan Luce – yes, Charlotte Rasmussen – yes, Sue Sutter – yes. Motion carried unanimously.

Open session recessed at 11:06 a.m.

## RECONVENE IN OPEN SESSION

Open session reconvened by consensus at 1:43 p.m.

## VOTING ON ITEMS CONSIDERED/DELIBERATED ON IN CLOSED SESSION

### PERSONAL APPEARANCE

#### MARK G ANDERSON, RPH

Mark G. Anderson, R.Ph, appeared with his attorney, Hal Harlowe, and his employer, Paul Hoffmann.

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to grant a three-month stay of suspension to Mark G. Anderson, R.Ph. Motion carried unanimously.

## REQUESTS FOR STAYS OF SUSPENSIONS/CHANGES IN BOARD ORDERS

#### ROBERT GUZETTA, RPH

MOTION: Dan Luce moved, seconded by Charlotte Rasmussen, to grant a three-month stay of suspension to Robert Guzetta, R.Ph. Motion carried unanimously.

#### JOHN LITZENBERG, RPH

MOTION: Michael Bettiga moved, seconded by Georgina Forbes, to grant a three-month stay of suspension but deny the modifications to the Order to John Litzenberg, R.Ph. Dan Luce abstained. Motion carried.

#### CRAIG MOON, RPH

MOTION: Michael Bettiga moved, seconded by Sue Sutter, to grant a three-month stay of suspension with screens remaining at six per month to Craig Moon, R.Ph. Dan Luce abstained. Motion carried.

#### KEVIN PAMPUCH, RPH

MOTION: Michael Bettiga moved, seconded by Georgina Forbes, to grant a three-month stay of suspension to Kevin Pampuch, R.Ph. Dan Luce abstained. Motion carried.

#### CHARLENE WILLIS, RPH

MOTION: Sue Sutter moved, seconded by Cynthia Benning, to deny the request for a reduction in therapy to Charlene Willis, R.Ph. Motion carried unanimously.



## PROPOSED STIPULATIONS

JENNY S KREGEL, RPH

MOTION: Cynthia Benning moved, seconded by Charlotte Rasmussen, to adopt the Findings of Fact, Conclusions of Law and Order in the matter concerning Jenny S. Kregel, R.Ph. Dan Luce and case advisor Michael Bettiga abstained. Motion carried.

THOMAS G PIRE, RPH

MOTION: Sue Sutter moved, seconded by Dan Luce, to adopt the Findings of Fact, Conclusions of Law and Order in the matter concerning Thomas G. Pire, R.Ph. Case advisor was Michael Bettiga. Motion carried unanimously.

LUIGI N MICELI, RPH

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to adopt the Findings of Fact, Conclusions of Law and Order in the matter concerning Luigi N. Miceli, R.Ph. Case advisor was Dan Luce. Motion carried unanimously.

THOMAS W MOORE, RPH

MOTION: Sue Sutter moved, seconded by Charlotte Rasmussen, to adopt the Findings of Fact, Conclusions of Law and Order in the matter concerning Thomas W. Moore, R.Ph. Case advisor was Dan Luce. Motion carried unanimously.

DAN FITZGERALD PHARMACY, INC

MOTION: Sue Sutter moved, seconded by Dan Luce, to adopt the Findings of Fact, Conclusions of Law and Order in the matter concerning Dan Fitzgerald Pharmacy, Inc. Case advisor was Michael Bettiga. Motion carried unanimously.

WILLIAM J KREGEL, RPH

MOTION: Dan Luce moved, seconded by Sue Sutter, to adopt the Findings of Fact, Conclusions of Law and Order in the matter concerning William J. Kregel, R.Ph. Case advisor was Michael Bettiga. Motion carried unanimously.

JAN R VEENENDAAL, RPH

MOTION: Dan Luce moved, seconded by Georgina Forbes, to adopt the Findings of Fact, Conclusions of Law and Order in the matter concerning Jan R. Veenendaal, R.Ph. Case advisor was Michael Bettiga. Motion carried unanimously.

EDWARD J CAPPER, RPH

MOTION: Dan Luce moved, seconded by Charlotte Rasmussen, to adopt the Findings of Fact, Conclusions of Law and Order in the matter concerning Edward J. Capper, R.Ph. Case advisor was Michael Bettiga. Motion carried unanimously.

CHARLES E HALL, RPH

MOTION: Sue Sutter moved, seconded by Michael Bettiga, to adopt the Findings of Fact, Conclusions of Law and Order in the matter concerning Charles E. Hall, R.Ph. Case advisor was Dan Luce. Motion carried unanimously.

MOTION: Sue Sutter moved, seconded by Michael Bettiga, to close complaint **01 PHM 021** against Hall Pharmacies, Sauk City, for compliance gained. Case advisor was Dan Luce. Motion carried unanimously.

STACEY N BERNARD, RPH

MOTION: Michael Bettiga moved, seconded by Georgina Forbes, to adopt the Findings of Fact, Conclusions of Law and Order in the matter concerning Stacey N. Bernard, R.Ph. Case advisor was John Bohlman. Motion carried unanimously.

REQUEST FOR MODIFICATION OF DECISION

WOMEN'S INTERNATIONAL PHARMACY, MADISON

Cynthia Benning and John Bohlman were absent for deliberation and voting.

MOTION: Michael Bettiga moved, seconded by Dan Luce, to reject the settlement offer in the matter concerning Women's International Pharmacy, Madison. Cynthia Benning and John Bohlman abstained. Motion carried.

CASE STATUS REPORT

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to issue an administrative warning against M. G., R.Ph., in complaint **00 PHM 066**. Case advisor was Sue Sutter. Dan Luce abstained. Motion carried.

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to close complaint **00 PHM 066** against Walgreens for no violation. Case advisor was Sue Sutter. Dan Luce abstained. Motion carried.

EXAMINATION RESULTS

MOTION: Cynthia Benning moved, seconded by Sue Sutter, to affirm the test scores from today's examination candidates. Motion carried unanimously.

## INFORMATIONAL ITEMS

The Board noted the informational items.

## ADJOURNMENT

MOTION: Cynthia Benning moved, seconded by Dan Luce, to adjourn the meeting.  
Motion carried unanimously.

The meeting adjourned at 1:52 p.m.

Phar100901